

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2002-116
HOUSE BILL 1540**

AN ACT TO DISAPPROVE AN AMENDMENT TO THE ADMINISTRATIVE RULE "USE STANDARDS FOR OCEAN HAZARD AREAS" ADOPTED BY THE COASTAL RESOURCES COMMISSION AND TO AUTHORIZE COUNTIES AND CITIES TO ORDER THE REMOVAL OF A SWIMMING POOL UPON A FINDING THAT THE SWIMMING POOL IS DANGEROUS OR PREJUDICIAL TO PUBLIC HEALTH OR SAFETY.

The General Assembly of North Carolina enacts:

SECTION 1. Pursuant to G.S. 150B-21.3(b), the amendment to 15A NCAC 07H .0309 (Use Standards for Ocean Hazard Areas: Exceptions), as adopted by the Coastal Resources Commission and approved by the Rules Review Commission on 15 November 2001, by which subdivision "(9) swimming pools;" would be deleted from subsection (a) of the rule is disapproved and shall not become effective. The remainder of the amendments to 15A NCAC 7H .0309, as adopted by the Coastal Resources Commission and approved by the Rules Review Commission on 15 November 2001, shall become effective on 1 August 2002.

SECTION 2. G.S. 153A-140 reads as rewritten:

"§ 153A-140. Abatement of public health nuisances.

A county shall have authority, subject to the provisions of Article 57 of Chapter 106 of the General Statutes, to remove, abate, or remedy everything that is dangerous or prejudicial to the public ~~health~~-health or safety. Pursuant to this section, a board of commissioners may order the removal of a swimming pool and its appurtenances upon a finding that the swimming pool or its appurtenances is dangerous or prejudicial to public health or safety. The expense of the action shall be paid by the person in default, and, if not paid, shall be a lien upon the land or premises where the nuisance arose, and shall be collected as unpaid taxes. The authority granted by this section may only be exercised upon adequate notice, the right to a hearing, and the right to appeal to the General Court of Justice. Nothing in this section shall be deemed to restrict or repeal the authority of any municipality to abate or remedy health nuisances pursuant to G.S. 160A-174, 160A-193, or any other general or local law. This section shall not affect bona fide farms, but any use of farm property for nonfarm purposes is subject to this section."

SECTION 3. G.S. 160A-193 reads as rewritten:

"§ 160A-193. Abatement of public health nuisances.

(a) A city shall have authority to summarily remove, abate, or remedy everything in the city limits, or within one mile thereof, that is dangerous or prejudicial to the public health or public safety. Pursuant to this section, the governing board of a city may order the removal of a swimming pool and its appurtenances upon a finding that the swimming pool or its appurtenances is dangerous or prejudicial to public health or safety. The expense of the action shall be paid by the person in default. If the expense is not paid, it is a lien on the land or premises where the nuisance occurred. A lien established pursuant to this subsection shall have the same priority and be collected as unpaid ad valorem taxes.

(b) The expense of the action is also a lien on any other real property owned by the person in default within the city limits or within one mile of the city limits, except

for the person's primary residence. A lien established pursuant to this subsection is inferior to all prior liens and shall be collected as a money judgment. This subsection shall not apply if the person in default can show that the nuisance was created solely by the actions of another."

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 5th day of September, 2002.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

This bill having been presented to the Governor for his signature on the 6th day of September, 2002 and the Governor having failed to approve it within the time prescribed by law, the same is hereby declared to have become a law.

This 17th day of September, 2002

s/ Ashley D. Blizzard
Enrolling Clerk